IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 362 of 1994

For Approval and Signature:

HON'BLE MR.JUSTICE SHARAD D.DAVE

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PADMAVATI TEXTILES & 1

Versus

SURESHBHAI R SHAH

Appearance:

1. Appeal from Order No. 362 of 1994

MR GIRISH D BHATT for Petitioner No. 1

MR YN OZA for Respondent No. 1

MR AS PANDYA for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE SHARAD D.DAVE

Date of decision: 04/11/2003

ORAL JUDGEMENT

Heard Mr.G.D.Bhatt learned advocate for the

appellant. Mr.Yatin Oza learned counsel for Mr.A.S.Pandya learned advocate for the respondent is not present when called.

Being aggrieved and dissatisfied with the judgment and order dated 20.09.1994 of the learned Auxiliary Chamber Judge, Court no. 22, Ahmedabad City Civil Court below the plaintiff's notice of motion exh. 5 and application for interim injunction exh. 6 in Regular Civil Suit no. 6132 of 1993, the original defendants have filed this appeal from order.

While disposing C.A. no. 4444/94 in this appeal from order, this court (Coram : K.R.Vyas, J) has passed the following order :

"By way of interim order, the respondent is permitted to use the boiler in question till the rights of the parties are decided in the suit on the condition that the respondent shall deposit Rs.5,000/- every month in the trial court till it covers Rs.2,20,000/- (being 50% of the price of the boiler in question), or till the decision of the suit, whichever is earlier.

On failure to make two consecutive deposits of Rs.5,000/- each, it will be open for the applicants to file necessary application before this court with a request to pass appropriate orders.

The amount so deposited by the respondent shall remain with the trial court and neither of the parties will be permitted to withdraw the same till the suit is decided.

The said deposits will be subject to the result of the suit.

The respondent shall file an undertaking to the aforesaid effect in this court within four weeks from today.

Considering the dispute involved in the matter, it is desirable that the suit is disposed of as early as possible. It is, therefore, clarified that the pendency of the appeal from order in this court will not come in the way of the trial court in proceeding further with the hearing and disposal of the suit. C.A. disposed of accordingly."

Today, Mr.Bhatt learned advocate for the appellants has admitted that he has written letter to his clients to meet him and inform whether the respondent has deposited the amount as ordered by this court or not,

however, he has not been given any response by either of the appellants. Therefore, he cannot throw light on the point before this court. Mr.Bhatt wanted that this appeal from order should be allowed and trial court should be directed to dispose of the suit as early as possible.

In view of the fact that no order is passed on the appeal from order till today, I am also of the opinion that original suit is of year 1993 and the trial court should dispose of the suit early. This appeal from order is allowed accordingly. The trial court is hereby directed to dispose of the Regular civil suit no. 6132/93 as early as possible. This appeal from order is disposed of accordingly with the aforesaid direction.

(SHARAD D DAVE, J)

srilatha